

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ARRIN BARBER,

SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
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DATE FILED: 10-27-08

Petitioner,

08 Civ. 8179 (JGK)

- against -

MEMORANDUM OPINION AND  
ORDER

UNITED STATES,

Respondent.

JOHN G. KOELTL, District Judge:

This case has been transferred to the Court from the Eastern District of Pennsylvania. The Court has received a letter from the petitioner's prior counsel suggesting that new counsel be appointed so that prior counsel can transfer the case. But the petitioner himself has made no request for the appointment of counsel, and indeed he brought his petition in the Eastern District of Pennsylvania without counsel. There has not been a sufficient showing that counsel should be appointed in this case, in which the petitioner seeks credit for time he alleges he previously served in county jail.

"Under 18 U.S.C. § 3006A(a)(2), a petitioner for habeas corpus is not entitled as of right to the appointment of counsel; however, that statute permits a federal court to appoint counsel for a financially eligible petitioner when 'the interests of justice so require.' 18 U.S.C. § 3006(a)(2). In determining whether to grant discretionary appointment of

counsel, courts in this circuit have looked to such factors as the petitioner's likelihood of success on the merits, the complexity of the legal issues raised by the petition, and the petitioner's ability to investigate and present the case."

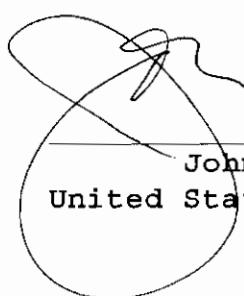
Gonzalez v. New York, No. 05 Civ. 9028, 2006 WL 728482, at \*1 (S.D.N.Y. Mar. 21, 2006) (internal quotation marks omitted).

The standard for the appointment of counsel has not been met here. The petitioner has not shown a likelihood of success on the merits, nor has he raised complex legal issues or issues that he would have a difficult time investigating or presenting without counsel. Moreover, as noted above, the petitioner himself has not requested counsel.

The petitioner, who is currently incarcerated at the Federal Correctional Institution in Otisville, New York, appears to seek credit for time served in the amount of 334 days the petitioner allegedly spent in custody at the Lancaster County Prison in Pennsylvania. The Government should submit any opposition to this petition by **November 24, 2008**. The petitioner should submit any reply by **December 8, 2008**.

SO ORDERED.

Dated:      New York, New York  
                 October 18, 2008

  
John G. Koeltl  
United States District Judge